

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LESLIE LISNITZER, individually and on behalf of
all others similarly situated,

Plaintiff,

-against-

For Online Publication Only

ORDER

11-CV-04641 (JMA) (ARL)

HOWARD ZUCKER, M.D., as Commissioner of the
New York State Department of Health, and
MICHAEL HEIN, as Commissioner of the Office
of Temporary and Disability Assistance of the
New York State Department of Family Assistance,

Defendants.

-----X
AZRACK, United States District Judge:

Before the Court are objections submitted by Defendants Howard Zucker, M.D., as Commissioner of the New York State Department of Public Health, and Michael Hein, as Commissioner of the Office of Temporary and Disability Assistance of the New York State Department of Family Assistance, to Magistrate Judge Arlene R. Lindsay's Report and Recommendation ("R&R"), which recommends that the Court grant Plaintiff's motion for attorney's fees and costs, and award Plaintiff \$1,121,666.96 in attorney's fees and \$6,072.12 in costs. (ECF No. 188.)

Defendants timely filed objections to the R&R (ECF No. 189 ("R&R Objections")), and Plaintiff timely responded to Defendants' objections. (ECF No. 190.) After conducting a review of the full record (including the motion papers, R&R, and objections) and applicable law, the Court adopts Magistrate Judge Lindsay's R&R in its entirety as the opinion of the Court.

In reviewing a magistrate judge's report and recommendation, a court must "make a de novo determination of those portions of the report or . . . recommendations to which

objection[s] [are] made.” 28 U.S.C. § 636(b)(1)(C); see also United States ex rel. Coyne v. Amgen, Inc., 243 F. Supp. 3d 295, 297 (E.D.N.Y.), aff’d sub nom. Coyne v. Amgen, Inc., 717 F. App’x 26 (2d Cir. 2017). The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

The Court finds no clear error in the portions of Magistrate Judge Lindsay’s R&R to which there are no objections. Next, the Court turns to the portions of the R&R to which Defendants have objected. First, Defendants contend that the attorney’s fees award should be reduced by 25% “on the basis of the limited degree of success obtained,” instead of by 10%, as Magistrate Judge Lindsay recommends. (R&R Objections at 2.) Second, Defendants object to Magistrate Judge Lindsay’s recommendation that the Court deny Defendants’ request for a further reduction of the fees award by 25% due to overbilling. (Id. at 7.) Regarding Defendants’ objections to these portions of the R&R, the Court has undertaken a de novo review of the full record and applicable law, and the Court agrees with Magistrate Judge Lindsay’s R&R.

For the foregoing reasons, the Court affirms and adopts the well-reasoned R&R in its entirety as the opinion of the Court. Plaintiff’s motion for attorney’s fees and costs is GRANTED. Accordingly, Plaintiff is awarded \$1,121,666.96 in attorney’s fees and \$6,072.12 in costs. The Clerk of Court is respectfully directed to enter judgment in Plaintiff’s favor.

SO ORDERED.

Dated: August 31, 2022
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE